



POLICY AND ADMINISTRATIVE PROCEDURES

Manual of Policies and Procedures

Title

OFFENDER MARRIAGE

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
IC 11-8-2-5(a)(8) IC 31-11-4-1 <i>et seq.</i>	00-02-301 01-04-102 01-02-101 02-01-102 01-03-101 02-04-104 01-04-101	NONE

I. PURPOSE:

The purpose of this policy and its administrative procedures is to establish a process to allow incarcerated offenders to request approval from the Department of Correction to be married in a Department facility.

II. POLICY STATEMENT:

The Department of Correction recognizes that marriage may serve as a rehabilitative tool which may assist an offender during the community re-entry process. The State has an interest in ensuring that persons desiring to marry meet certain requirements and that, as such, the Department must establish appropriate criteria for those offenders requesting to marry.

An offender desiring to marry while incarcerated within the Department will be required to meet all of the conditions to marry as imposed by the State of Indiana and to obtain approval from staff at the facility housing the offender. The approval of an offender's request to marry shall be based upon the legality of the proposed marriage and the safety and security of the facility and the individuals involved. The Department shall not unreasonably deny an offender's request to marry. An offender shall be given a written reason for a denial of a request to marry. A denial of a request to marry may be challenged through the offender grievance process.

Offenders shall not be given temporary leaves for the purpose of being married, except for offenders in the Work Release Program who have been approved for such leaves. Additionally, there shall be no provisions made which allow for the consummation of the marriage. An offender may be authorized a special visit with the intended spouse for the purpose of the marriage ceremony and to allow a time for visitation following the ceremony.

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III. DEFINITIONS:

For the purpose of these administrative procedures, the following definitions are presented:

- A. **COORDINATOR FOR MARRIAGE REQUESTS (COORDINATOR):**
The staff person assigned by the Facility Head to coordinate offender marriages.
- B. **LICENSE:** The license required by the State of Indiana that authorizes two (2) people to be married.

IV. COORDINATOR FOR MARRIAGE REQUESTS:

Each Facility Head shall designate a staff person to act as a Coordinator for offender marriages.

The duties of the Coordinator will include:

- A. Answering questions from offenders and intended spouses about the facility's procedures for offender marriages;
- B. Receiving requests for marriages from offenders and intended spouses;
- C. Verifying the information supplied by the offender;
- D. Assisting, as necessary, in arranging the marriage; and,
- E. Complete and file a monthly **MARRIAGE COORDINATOR REPORT** and forward a copy to the Director of Religious Services and Community Involvement, not later than the 10th of the following month.

The Coordinator may confer with the facility Chaplain, if the Coordinator is not the Chaplain and if a Chaplain is available at the facility, to arrange any pre-marital counseling with the clergy performing the ceremony and for assistance in aspects related to the marriage ceremony.

V. REQUEST FOR MARRIAGE:

An offender desiring to marry shall obtain approval from the Facility Head or designee. An offender desiring to marry shall contact the Coordinator to obtain State Form 28388, **OFFENDER REQUEST FOR MARRIAGE**. The offender shall complete this form accurately and supply all requested information. Upon return of a completed State Form 28388, the Coordinator shall verify the information supplied by the offender by the O.I.S. and use of the offender's facility packet. Failure to supply all requested information, falsification of information and the inability to verify the information supplied by the offender may delay the approval or result in a denial of the request.

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The offender shall initiate the request for marriage at least ninety (90) days prior to the intended date of the ceremony so that sufficient time is available to complete the approval process and to complete all of the necessary arrangements.

Following the verification of the offender information on State Form 28388, the Coordinator shall send it to the intended spouse with a cover letter to the intended spouse indicating the following information:

- A. The offender's true (commitment) name;
- B. The offender's offense;
- C. The offender's length of sentence;
- D. The offender's projected release date; and,
- E. Any other public information, including information on the offender's prior criminal convictions.

Staff shall not release restricted or confidential information regarding an offender without the approval of the Facility Head or designee.

The intended spouse is to complete the center section of State Form 28388 and return the signed State Form 28388 to the Coordinator. Failure to complete this form or supply accurate information may result in a delay or denial of the request to marry.

The Coordinator shall ensure:

- When the offender and the intended spouse have obtained a valid marriage license and the blood test (if necessary according to county) to marry in the State of Indiana; and,
- The marriage does not endanger the safety or security of the facility or the individual's involved.

The Coordinator shall recommend approval or denial of the request with reasons. The recommendation shall be based upon whether the request appears to: (1) meets legal requirements; and, (2) presents a threat to the safety and/or security of the facility. The request shall be forwarded to the Facility Head or designee for a decision regarding approval or denial.

Operational procedures shall be developed to ensure that offenders have access to SF 28388, the Coordinator, and the request for marriage process is completed within 90 days from the date of the receipt of the completed application to marry.

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VI. PRE-MARITAL EDUCATION:

Prior to the approval of the marriage ceremony, the offender and his/her intended spouse shall be required to complete a marriage skills education course, such as the Prevention and Relationship enhancement Program (PREP). PREP seminars shall be offered regularly by specially trained Department staff in the facilities.

The marriage application will not be considered completed until the marriage skills education course is complete.

VII. APPROVAL/DENIAL OF REQUEST TO MARRY:

The Facility Head or designee shall review the request and will indicate either approve or deny on the form. Reasons for the denial of an offender's request to marry are:

- A. The offender is not legally eligible to marry;
- B. The offender is requesting to marry another offender;
- C. The offender is requesting to marry either a staff member or former staff member of the department; or,
- D. The requested marriage would endanger the safety and security of the facility, the department, the individuals involved or the public.

If the request is denied, the rationale for this decision shall be included and - State Form 28388 shall be returned to the Coordinator following the Facility Head or designee's decision. The Coordinator shall inform the offender of the decision.

The offender shall be responsible to inform the intended spouse of the decision. If the decision has been to approve the marriage, the Coordinator shall explain the facility's marriage procedures to the offender.

Operational procedures shall be developed ensuring that the Facility Head reviews the request in a timely manner and that the offender is advised as to the Facility Head's decision.

VIII. MARRIAGE LICENSE:

The County Clerk is responsible for verifying documentation needed for the license. The offender's intended spouse shall be responsible for contacting the appropriate authorities (i.e., County Clerk's Office in the county of residence of the offender or the intended spouse if also a resident of Indiana) to obtain a marriage license. The facility shall work with the County Clerk so that the offender can complete the necessary portions of the marriage license without requiring the offender to go to the Clerk's Office. However, the offender and the

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intended spouse shall be advised that the County Clerk may have certain rules regarding both parties being present to obtain the Marriage License that must be followed and that the Department of Correction has no authority over either the County Clerk or the Clerk's rules. Offenders shall not be given a Temporary Leave in order to obtain a Marriage License, except in Community Re-Entry Centers if the offender meets the requirements to be given a pass.

The marriage license application shall be the responsibility of the offender and the offender's intended spouse. Neither the Coordinator nor the department will be responsible for any cost or actions relating to the application process.

Operational procedures shall indicate the manner in which the offender is allowed to complete the marriage license process.

A. Responsibility for Medical Tests

It shall be the responsibility of the offender and/or the intended spouse to obtain any required medical tests. If the offender must be tested, these medical tests may be conducted by the facility. In such cases, the offender shall go through the regular medical procedures (i.e. sick call) to obtain the required tests. These medical tests for the purpose of a marriage shall be considered elective procedures and shall be conducted after all other necessary (i.e. non-elective) medical work is completed.

The offender shall be responsible for the costs of such tests. If the offender pays the cost of the test, the offender shall not be assessed the medical co-payment for medical services. If the offender does not have sufficient funds in the Inmate Trust Fund, the offender may be given the option of delaying the marriage request until sufficient funds are available. The department shall not assume any cost for required medical tests for the purpose of obtaining a marriage license.

B. Duties of Physician Conducting Medical Tests

The physician shall complete a written report of any examinations which shall include:

1. The name of the individual who was examined;
2. A statement that the individual was examined by the physician;
3. The date that the individual was examined;
4. A statement of whether the individual has an immunological response to any disease of which requires testing; and,
5. A statement whether the individual objected on religious grounds to taking a test to determine an immunological response.

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The physician shall provide the written report and a copy of the laboratory report to the offender. The offender shall send the physician's report and the laboratory report to the offender's intended spouse to be included with the needed information for the application for a license to marry.

IX. ARRANGEMENT FOR MARRIAGE CEREMONIES:

Upon receipt of the marriage license by the intended spouse, the intended spouse is to contact the Coordinator and provide a copy of the marriage license to the Coordinator. The original marriage license must be brought to the facility by the intended spouse at the time of the ceremony.

Upon receipt of a copy of the marriage license, the Coordinator shall advise the offender and intended spouse of the facility requirements concerning marriages. The information provided by the Coordinator is to include:

- A. Location of the ceremony;
- B. Who may officiate at the ceremony;
- C. Persons permitted to attend;
- D. Visitation relative to the ceremony; and,
- E. Any other facility arrangements or restrictions.

Operational procedures shall be developed indicating what arrangements are appropriate for the facility and any special arrangements that may be necessary for offenders housed on special units (e.g. segregation units, death row, etc.)

X. LOCATION OF MARRIAGE CEREMONIES:

The Facility Head or designee shall determine a suitable location for marriage ceremonies at the facility. These ceremonies may be conducted in the visiting area provided that the ceremonies do not disrupt the routine visiting activities of other offenders.

Operational procedures shall designate what location(s) are approved for offender marriage ceremonies, the procedures to be followed to reserve these locations and indicate any restrictions on the use of the designated location(s).

XI. OFFICIANTS OF MARRIAGE CEREMONIES:

The offender may request that the facility chaplain or another authorized individual to conduct the marriage ceremony. If the officiant is not the facility chaplain, it shall be the responsibility of the offender and the offender's intended spouse to ensure that the selected officiant meets all applicable requirements to perform marriage ceremonies.

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The officiant selected by the offender may impose additional requirements prior to the marriage ceremony based upon religions tenets or doctrines. The facility chaplain(s) is not obligated to perform a wedding ceremony.

If the officiant is other than the chaplain, the offender and intended spouse shall be responsible for making any necessary arrangements and for any expenses or costs associated with the marriage ceremony. Any person conducting a marriage ceremony at a facility shall be required to abide by the facility's visitation procedures as found in policy 02-01-102, "Offender Visitation." The Coordinator shall ensure that the offender has made the selected officiant aware of all applicable visitation procedures and any other procedures that may impact the officiant and the conducting of the ceremony.

Operational procedures shall indicate the procedures to be followed by offenders when an officiant is selected.

XII. PERSONS ATTENDING THE MARRIAGE CEREMONY:

The offender and intended spouse are to discuss with the Coordinator the rules for persons visiting during the marriage ceremony. The offender may submit a request for special visiting privileges for the purpose of the marriage ceremony. Any such request will be in accordance with the facility's operational procedures for Policy 02-01-102, "Offender Visitation."

The offender may be allowed a special visit, with the approval of the Facility Head or designee. The decision whether to approve a special or extended visit shall be based upon the safety and security of the facility and the resources and space available for such visit.

XIII. TEMPORARY LEAVES/PASSES:

Temporary leaves shall not be granted for the purpose of a marriage.

An offender assigned to the Work Release Program may be granted a leave, providing the offender is eligible for such a leave, at the discretion of the Facility Head. The length of such leave will be determined by the offender's eligibility for leaves; however, the leave shall not exceed forty-eight (48) hours.

XIV. CONSUMMATION OF MARRIAGE:

These procedures exclude any provision for the consummation of a marriage by the offender. Temporary leaves or visits shall not be granted for the purpose of consummating the marriage. Offenders assigned to a Work Release Program may be granted a temporary pass, if they meet all eligibility requirements.

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XV. APPEALS:

Offenders may appeal the Facility Head's denial of a marriage request by the use of Policy 00-02-301, "The Offender Grievance Process." Grievance Appeals to Central Office shall be submitted in accordance with the administrative procedures for Policy 00-02-301; however, these appeals shall be forwarded to the Director of Religious Services and Community Involvement who will review the appeal and consult with the Deputy Commissioner of Operations and the Director of Legal Services before responding to the appeal.

XVI. APPLICABILITY:

These administrative procedures are applicable to all departmental facilities housing adult offenders, except adult Intake Units. Adult Intake Units are not required to allow offenders to marry during the intake process.

Due to the restrictions on persons under the age of eighteen (18) to marry, juvenile offenders shall not be permitted to marry while incarcerated in a Department facility.

Signature on File
Edwin G. Buss
Commissioner

1/22/10
Date